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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re the Application of

US PATENT & TRADEMARK OFFICE

Xiao-Dong SUN

Group Art Unit: 1743

Application No.: 09/666,382

Examiner: Arlen Soderquist

Filed: September 20, 2000

141 Reg for refund
02-07-04

For: METHOD AND SYSTEM FOR SELECTIVELY DISTRIBUTING
LUMINESCENCE MATERIAL PRECURSORS

REQUEST FOR REFUND

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is a request for a refund with respect to a December 26, 2003 Credit Card Payment Form charge authorization in the amount of \$ 770 purportedly in respect of a Request for Continued Examination (RCE). The Request is made for the following reasons.

1. The September 26, 2003 Office Action in this case was an improper final action.
2. A September 26, 2003 Final Rejection in this case was in response to Applicant's July 23, 2003 RCE and accompanying Request for Reconsideration in response to an April 30, 2003 Final Rejection..
3. RCE's are governed by 37 CFR 1.114 and MPEP 706.07(h). 37 CFR 1.114 where relevant, states:

(d) If an applicant timely files a submission and fee set forth in § 1.17(e), the Office *will* withdraw the finality of any Office action and the submission will be entered and considered. If an applicant files a request

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for continued examination under this section after appeal, but prior to a decision on the appeal, it will be treated as a request to withdraw the appeal and to reopen prosecution of the application before the examiner. An appeal brief under § 1.192 or a reply brief under § 1.193(b), or related papers, will not be considered a submission under this section. (Emphasis added.)

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4. The September 26 Final Rejection failed to withdraw the finality of the previous Office Action as required by Rule 37 CFR 1.114.

5. The December 26, 2003 Credit Card Payment in the amount of \$ 770 was filed to maintain pendency of this case and to assure consideration of Applicants December 26, 2003 Amendment after Final Rejection under 37 C.F.R. §1.116 but should not have been required and should be refunded.

6. Applicant requests refund of the December 26, 2003 Credit Card Payment authorization in the amount of \$ 770 in the form of issuance of a credit to the charged credit card account in the amount of \$ 770.

Respectfully submitted,



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Alexandria, Virginia
26 DEC, 2003